

ORIGINAL

**FIRST AMENDMENT TO COOPERATION AGREEMENT  
FOR PAYMENT OF COSTS ASSOCIATED WITH  
CERTAIN REDEVELOPMENT AGENCY FUNDED PROJECTS**

**THIS FIRST AMENDMENT TO COOPERATION AGREEMENT FOR PAYMENT OF COSTS ASSOCIATED WITH CERTAIN REDEVELOPMENT AGENCY FUNDED PROJECTS** (this "**First Amendment**") is entered into this 11<sup>th</sup> day of March, 2011, by and between the CITY OF SAN DIEGO, a municipal corporation (the "**City**"), and the REDEVELOPMENT AGENCY OF THE CITY OF SAN DIEGO, a public body, corporate and politic (the "**Agency**").

**RECITALS**

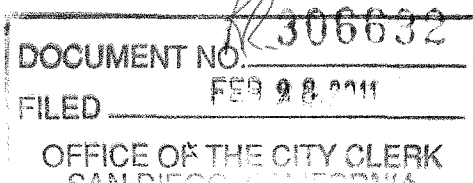
The City and the Agency (individually, a "**Party**" and collectively, the "**Parties**") enter into this Agreement with reference to the following facts and circumstances:

A. Pursuant to California Health and Safety Code Section 33220, the City and the Agency have entered into that certain Cooperation Agreement dated February 28, 2011 (the "**Cooperation Agreement**"). A true and correct copy of the Cooperation Agreement is on file with the Office of the City Clerk as Document No. RR-306632 and with the Office of the Agency Secretary as Document No. D-04618. All capitalized terms in this First Amendment shall have the same meaning ascribed to them in the Cooperation Agreement, unless otherwise specified herein. Notwithstanding any other provision of this First Amendment, the term "Agency" shall have the same meaning ascribed to it in the Cooperation Agreement.

B. Subject to the provisions of the Cooperation Agreement, the Agency has incurred debt to the City in the aggregate amount of \$4,107,090,901 in connection with the City's agreement to implement the Projects as set forth in the Schedule of Projects attached as Exhibit 1 to the Cooperation Agreement. Among other things, the Cooperation Agreement obligates the Agency to submit payments to the City in accordance with the Payment Schedule, attached as Exhibit 2 to the Cooperation Agreement, and as otherwise necessary to advance funds to the City for costs to be incurred by the City in implementing the Projects and performing its obligations pursuant to the Cooperation Agreement.

C. Section VI(5) of the Cooperation Agreement allows the Parties to amend the Cooperation Agreement in writing, and further allows any written amendment to be agreed to and executed by the Mayor or designee on behalf of the City and the Executive Director or designee on behalf of the Agency so long as the amendment will not result in an increase in the total amount of funds payable by the Agency to the City under the Payment Schedule and will not require the adoption of any resolution or ordinance pursuant to the Community Redevelopment Law or other applicable law.

D. The Parties now desire to enter into this First Amendment on an administrative basis in accordance with Section VI(5) of the Cooperation Agreement in order to confirm a



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RR-306632

DOCUMENT NO. D-04618/R-04618  
FILED MAR 11 2011  
OFFICE OF THE REDEVELOPMENT AGENCY  
SAN DIEGO, CALIF.

prepayment to the City of the Agency's advance of funds, and the City's use of such funds, under the Cooperation Agreement.

## AGREEMENT

**NOW, THEREFORE,** for good and valuable consideration, including the mutual promises and covenants contained herein, the Parties mutually agree as follows:

### **I. AMENDMENT TO THE COOPERATION AGREEMENT**

Section II(4) of the Cooperation Agreement is hereby deleted in its entirety and replaced with the following text:

"All payments due to be made by the Agency to the City under this Agreement shall be made by the Agency in accordance with the Payment Schedule and as otherwise necessary to advance funds to the City for the costs to be incurred by the City in performing its obligations hereunder. Notwithstanding the Payment Schedule, (i) the Agency shall have the option at its sole discretion to prepay as an advance to the City any payments due to be made by the Agency to the City under this Agreement, and (ii) the City shall have the obligation to use such advanced funds for the purposes of, and subject to the conditions set forth in, the Cooperation Agreement. For the sake of clarity, the Parties agree that the column referring to FY 2012 in the Payment Schedule shall include both the balance of Fiscal Year 2011 ending June 30, 2011, and all of Fiscal Year 2012 ending June 30, 2012. Accordingly, any funds advanced by the Agency to the City during Fiscal Year 2011 are eligible to be used by the City for Projects during Fiscal Year 2011 and in subsequent fiscal years, as the circumstances may warrant."

### **II. GENERAL PROVISIONS**

1. Effect of First Amendment. The Parties agree that, except as expressly provided otherwise in this First Amendment, the Cooperation Agreement and the exhibits attached thereto and any document executed or entered into pursuant to the Cooperation Agreement shall remain in full force and effect, enforceable in accordance with its terms and conditions, without diminution or waiver of any kind of any right, remedy, obligation or liability of the City or the Agency under the Cooperation Agreement.

2. Incorporation. The Recitals set forth above are hereby incorporated into this First Amendment by this reference, as though fully set forth herein.

3. Counterparts. This First Amendment may be executed in counterparts, each of which when so executed shall be deemed an original, and all of which, when taken together, shall constitute one and the same instrument.

4. Governing Law and Venue. This First Amendment and the legal relations between the Parties shall be governed by, interpreted under, construed and enforced in accordance with the laws of the State of California. This First Amendment is made and entered

into in the County of San Diego, California, and any legal actions or proceedings arising from or related to this First Amendment shall be brought in the County of San Diego.

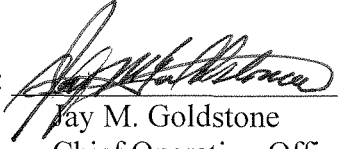
5. Severability. If any term, provision, covenant or condition of this Agreement is determined by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the provisions shall continue in full force and effect unless the rights and obligations of the Parties have been materially altered or abridged by such judicial determination.

6. Authority. Each Party warrants that the individuals who have signed this First Amendment have the legal power, right, and authority to execute this First Amendment and to bind each respective Party.

*[Remainder of this page intentionally left blank]*

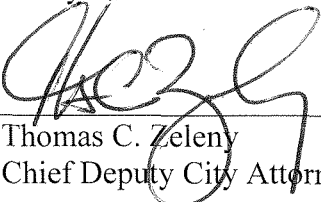
IN WITNESS WHEREOF, the Parties hereto have caused this First Amendment to be executed as of the date first written above.

**CITY OF SAN DIEGO**


By:   
Jay M. Goldstone  
Chief Operating Officer

APPROVED AS TO FORM:

JAN I. GOLDSMITH  
City Attorney

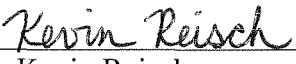
By:   
Thomas C. Zeleny  
Chief Deputy City Attorney

**REDEVELOPMENT AGENCY OF THE CITY OF SAN DIEGO**

By:   
Jerry Sanders  
Executive Director

APPROVED AS TO FORM:

JAN I. GOLDSMITH  
General Counsel

By:   
Kevin Reisch  
Deputy General Counsel

D-04618